

COMMUNITY ZONING APPEALS BOARD - AREA 5

MEETING OF THURSDAY, JUNE 28, 2012

NORMA & JEAN REACH PARK

7901 N.W. 176 Street, Miami, Florida

ITEM

MIAMI GARDENS COMMONS, LLC

(11-077)

Members of the Board

Present

Juan A. Garcia, Chair
Joanne Carbana, Vice-Chair
Leonardo A. Perez
Alexander C. Senderoff
Ira J. Paul

STAFF

Earl Jones, Clerk
Jackie Carranza

John McInnis, Assistant County Attorney

I N D E X
SPEAKERS & PAGE NUMBERS

Chairman Garcia: 3-4, 7-10, 18-20, 24, 35-41, 44, 46-47, 49-51, 53-56.

Vice-Chair Carbana: 3, 19-20, 22-24, 35, 42, 49-56.

Councilman Perez: 3, 24-27, 29-34, 36, 44, 54-56.

Councilman Senderoff: 3-4, 50-53, 56.

Councilman Paul: 3, 56.

STAFF

Mr. McInnis: 3, 55.

Mr. Jones: 3-5, 56.

Ms. Carranza: 8-10, 36, 41-44, 50.

APPLICANT'S REPRESENTATIVE

John Herin: 8-10, 19-20, 22-25, 29-37, 39-47, 50, 52-54.

Peter Jenkins: 11, 18, 21, 25-29

SUPPORTERS

None

OBJECTORS

None

1 (Thereupon, the following proceedings
2 were had:)

3 CHAIRMAN GARCIA: Good evening,
4 Ladies and Gentlemen. Are the court
5 report and the county attorney present?

6 THE COURT REPORTER: Present.

7 MR. McINNIS: Yes.

8 CHAIRMAN GARCIA: Thank you.

9 Ladies and Gentlemen, this meeting of
10 Community Council 5 has come to order this
11 28th day of June 2012.

12 Please, at this time would you rise
13 for the Pledge of Allegiance.

14 (Thereupon, the Pledge of Allegiance
15 was had.)

16 CHAIRMAN GARCIA: You may be seated.
17 Staff, would you please call the
18 roll.

19 MR. JONES: Vice Chairwoman Carbana?

20 VICE CHAIRWOMAN CARBANA: Present.

21 MR. JONES: Councilman Paul?

22 COUNCILMAN PAUL: Present.

23 MR. JONES: Councilman Perez?

24 COUNCILMAN PEREZ: Present.

25 MR. JONES: Councilman Senderoff?

1 COUNCILMAN SENDEROFF: Present.

2 MR. JONES: Chairman Garcia?

3 CHAIRMAN GARCIA: Present.

4 MR. JONES: We have a quorum.

5 CHAIRMAN GARCIA: Thank you.

6 Those of you present, who wish to
7 speak this evening, must stand and the
8 court reporter will swear you in.

9 (Thereupon, individuals seeking to
10 give testimony in this matter were duly
11 sworn to tell the truth, the whole truth,
12 and nothing but the truth, after which the
13 following transpired:)

14 CHAIRMAN GARCIA: Those of you who
15 are lobbyists should have registered with
16 the Dade County Clerk of the Board's
17 Office prior to this hearing.

18 At this time, is there anyone present
19 who wishes to defer or withdraw an
20 application? If so, please come forward
21 at this time and state your name and
22 address for the record.

23 Okay. No one moving. We'll move on.
24 There are no deferrals or withdrawals at
25 this time.

1 Staff, for the record, please read
2 the Department's introductory statement.

3 MR. JONES: "In accordance with the
4 Code of Miami-Dade County, all items to be
5 heard this evening have been legally
6 advertised in the newspaper, Notices have
7 been mailed, and the properties have been
8 posted. Additional copies of the agenda
9 are available here at the meeting.

10 Items will be called up to be heard
11 by agenda number and name of applicant.

12 The record of the hearing on each
13 application will include the record of
14 Department of Regulatory and Economic
15 Resources.

16 All these items are physically
17 present this evening, available to all
18 interested parties, and available to the
19 Members of the Board, who examine items
20 from the record during the hearing.

21 Parties have the right of
22 cross-examination.

23 This statement, along with the fact
24 that all witnesses have been sworn, should
25 be included in any transcript or all or

1 any part of these proceedings.

2 In addition, the following
3 departments have representatives present
4 here at the meeting to address any
5 questions: The Department of Public Works
6 & Waste Management, the Department of
7 Regulatory & Economic Resources, the
8 County Attorney's Office.

9 All exhibits used in presentation
10 before the Board become part of the public
11 record and will not be returned unless an
12 identical letter-sized copy is submitted
13 for the file.

14 Any person making impertinent or
15 slanderous remarks or becomes boisterous
16 while addressing the Community Zoning
17 Appeals Board shall be barred from further
18 audience before the Community Zoning
19 Appeals Board by the presiding officer
20 unless permission to continue or again
21 address the Board be granted by the
22 majority vote of the Board Members
23 present.

24 The number of filed protests and
25 waivers on each application will be read

1 into the record at the time of hearing as
2 each application is read. Those items not
3 heard prior to the ending time for this
4 meeting will be deferred to the next
5 available zoning hearing meeting date for
6 this Board.

7 CHAIRMAN GARCIA: Thank you.

8 Just a little quick explanation of
9 how the meeting is going to go, and so
10 that way we can stay on task and be on
11 time. We have to be out of here by nine
12 o'clock, so hopefully sooner.

13 When we call your item, please step
14 up to the podium. State your name and
15 address for the record. Then we'll
16 proceed with the presentation.

17 After that, we will call for anyone
18 supporting the application. Then we'll
19 call any objectors to the application.

20 Those of you that wish to speak,
21 state your name and address for the
22 record. And I would ask that the ones
23 that are making a presentation or
24 speaking, just keep it to the point,
25 concise, so that way we'll have enough

1 time to get through it and get done with
2 all the items that we have on the agenda.

3 With that being said, staff, would
4 you please call the first item.

5 (Thereupon, other matters not related
6 to this cause were heard, after which the
7 following transpired:)

8 CHAIRMAN GARCIA: Okay. Next item.

9 MS. CARRANZA: Item Number 1, Miami
10 Gardens Commons, LLC, Zoning Hearing
11 Application Number 11-077.

12 MR. HERIN: Give me one moment.

13 MS. CARRANZA: If I may, through the
14 Chair.

15 CHAIRMAN GARCIA: Yes.

16 MS. CARRANZA: I have a point of
17 clarification on this item. On the
18 handwritten Page Number 4, there is a
19 mistake on the second paragraph. It's the
20 last two sentences of the second
21 paragraph. If you could just disregard
22 those two sentences. That's from a
23 previous version, I guess, of this -- of
24 this recommendation.

25 CHAIRMAN GARCIA: Where it starts by

1 saying "staff"?

2 MS. CARRANZA: "Staff opines that
3 since the additional tenant sign," yes.

4 CHAIRMAN GARCIA: Okay. So scratch
5 all that out?

6 MS. CARRANZA: All that. From that
7 to the end of that paragraph.

8 MR. HERIN: Which one?

9 MS. CARRANZA: Handwritten Page
10 Number 4.

11 MR. HERIN: Yes.

12 MS. CARRANZA: The last two
13 sentences. If you could disregard it,
14 that's a mistake. That's an error.

15 MR. HERIN: Of which paragraph?

16 MS. CARRANZA: Of handwritten Page
17 Number 4, the second paragraph, the last
18 two sentences where it starts, "Staff
19 opines that since the additional tenant
20 sign --"

21 MR. HERIN: Okay.

22 MS. CARRANZA: Thank you.

23 CHAIRMAN GARCIA: Okay. Does that --
24 those two sentences relate to any of the
25 conditions?

1 MS. CARRANZA: No, it doesn't relate
2 to the conditions. What it is, it's just
3 a mistake.

4 CHAIRMAN GARCIA: Oh, okay.

5 MS. CARRANZA: It's taken care of in
6 the next paragraph --

7 CHAIRMAN GARCIA: Oh, okay.

8 MS. CARRANZA: -- when we discuss
9 those two conditions. It's just to
10 disregard those two sentences.

11 CHAIRMAN GARCIA: No problem. Just
12 wanted to make sure if there's any
13 correlation. So if there isn't, then --

14 MR. HERIN: Good evening, Members of
15 the Council. I really appreciate the
16 opportunity to be here this evening.

17 My name is John Herin with address at
18 1221 Brickell Avenue, Suite 1600, Miami,
19 Florida. I'm here on behalf of the
20 applicant, Miami Gardens Commons, LLC,
21 that is seeking, as the cover page
22 indicates, a request for zoning and
23 various non-use variance applications.

24 I have along with me here this
25 evening, starting here, Mr. Gutierrez, who

1 is the project architect; Peter Jenkins,
2 who happens to be the General Counsel for
3 ITT, who's travelled from Indiana to be
4 here this evening to hear this
5 application.

6 I have Mr. Porris and Mr. Padron, who
7 are representatives of the property owner
8 as well as the applicant here this evening
9 as well.

10 We're here in support of the staff
11 recommendation. We're requesting that you
12 adopt that.

13 We do have two questions or two
14 issues with those that are -- would relate
15 to the two non-use variances that the
16 staff is recommending denial. If you turn
17 to the information that I've handed out,
18 it's really just a -- for your easy
19 reference, the code section dealing with
20 non-use variance and the standards, it
21 talks about compatibility.

22 The two non-use variance applications
23 that we have requested and staff has
24 recommended denial deal first with the
25 issue of signage on the building in

1 question. And the building is on 183rd
2 Street just west of 57th Avenue. It's
3 there; it's built; and it's currently
4 zoned IU-C.

5 What's being proposed -- and the
6 reason for the rezoning and the variance
7 is because what's being proposed, as a
8 tenant there, is ITT University, in order
9 to provide for a private college at this
10 location. They're taking the vast
11 majority of what is now an empty building.
12 And want to operate an ITT vocational
13 university in accordance with the same
14 process that they have throughout the
15 country.

16 Because of that, the current IU-C
17 zoning is required to now convert to BU-2.
18 It's completely consistent with all the
19 requirements of the Comprehensive Plan and
20 land development relations with respect to
21 the rezoning. And again, staff is
22 recommending approval of that rezoning
23 request.

24 The issue about the signage is as
25 follows. And this is -- the schematic is

1 actually in the staff report. Under the
2 code, any tenant in this location is
3 entitled to have at least one sign on the
4 building.

5 What we're proposing to do is to put
6 ITT in this building as the significant
7 largest tenant and basically occupy the
8 entire building, which would -- which
9 would then give them the right to put one
10 sign on the side of the building.

11 What we're asking is a variance for
12 them to also put a second sign on the
13 other side of the building over here
14 (indicating).

15 Now, what you need to note is that
16 under the code, this area that we're
17 asking for this variance is eligible for
18 signage already or anyway. It just may
19 not be for ITT. So, in fact, what we're
20 proposing, what we believe we're doing by
21 you -- asking for this variance, and you
22 all potentially granting it, is we're
23 going to ultimately reduce the amount of
24 overall signage that can otherwise go on
25 this building by placing ITT in this

1 location.

2 So, otherwise, as you can see, a sign
3 could go here, a sign could go here, a
4 sign here, here, here, all throughout that
5 balcony across the entire building
6 depending upon how it's subdivided and
7 ultimately rented out. But with one major
8 tenant such as ITT, they would only
9 otherwise be eligible for one sign.

10 We're asking for the right to be able
11 to have it on the other side as well, and
12 essentially make this a marquee building
13 for this area.

14 And then the last page -- last three
15 pages of the materials I handed out to
16 you -- and I know that staff may suggest
17 that, you know, just because something is
18 in one location does not necessarily mean
19 that you have to grant the variance here,
20 but by way of example, it is the existing
21 Kaiser University building out on 117th
22 out off the Turnpike in unincorporated
23 area, very near Doral. And as you can
24 see, there's signage on all three sides of
25 that building except the rear. It has the

1 same type of zoning, same type of
2 development, same type of tenant that
3 we're proposing here. As you can see,
4 it's a marquee.

5 That building at night -- and I just
6 happened to be travelling past that area
7 Tuesday evening -- you know, it's lit up.
8 It's a beacon. And that's what we would
9 like for this particular building. Not
10 only do we think it's the marquee building
11 for this area for a tenant in a business
12 of this type, but because they do offer
13 evening classes as part of their
14 curriculum. The fact that they will have
15 that signage will allow people to easily
16 locate the building in a rather congested
17 area as well.

18 So not withstanding the staff
19 recommendation, we are, in fact, asking
20 that you grant that non-use variance. And
21 we do believe that what we're proposing is
22 entirely compatible with the area, and
23 consistent with the criteria, and the code
24 that is before you, and the staff report
25 and in my handout.

1 The last item that we're asking a
2 variance for, for which staff has
3 recommended denial -- I'll go back to the
4 aerial photograph -- is, again, a function
5 of the rezoning.

6 Currently under the IU-C, which is a
7 fairly intensive zoning category, whenever
8 an IU-C area is adjacent to a residential
9 area, you're required to put in a
10 greenbelt buffer. In this case, it's an
11 eight-foot-wide buffer. It exists. It's
12 already there, and there's actually a
13 chain link fence on the other side that
14 has been installed by the apartment
15 complex. And they have landscaping on
16 their side as well.

17 If you follow the staff
18 recommendation, what's going to happen is
19 you're going to have a chain link fence
20 and a greenbelt buffer that extends from
21 57th Avenue and runs all the way down here
22 (indicating) interrupted by about a
23 75-foot wall, five feet in height, that's
24 going to stick out like a sore thumb. And
25 I respectfully submit to you that it's

1 going to become a beacon for potential
2 vandalism and other types of inappropriate
3 action with regard to that.

4 And the maintenance that then will
5 have to be undertaken on a regular basis
6 in order to maintain that wall is going to
7 be pretty onerous, particularly when it's
8 also going to inhibit our ability to get
9 to the landscaping that we've already --
10 that we were required and have already
11 installed on that property.

12 So from, again, a compatibility
13 standpoint, which is the criteria in the
14 code, I would again respectfully suggest
15 that putting up a wall at this location is
16 actually incompatible with what's all
17 there right now, that exists today, and
18 that will continue to exist.

19 You're going to have this isolated
20 wall in the back of this property right
21 here (indicating) when none of these other
22 very intense uses have any similar
23 requirement whatsoever and will never have
24 such a requirement.

25 And, in fact, as you can see from the

1 aerial of all the buildings and all the
2 uses in this area, this is one that's
3 probably the farthest away from the actual
4 residential area. So not only do you have
5 the existing greenbelt requirement that's
6 been met, you also have a distance
7 separation that's going to serve as a
8 buffer.

9 And, again, we would suggest to you
10 that if you take a look at the criteria in
11 the code regarding compatibility for
12 non-use variances, this is certainly
13 compatible and this is consistent with the
14 community character.

15 And we'd ask that you grant that
16 variance as well.

17 I'm here to answer any questions. We
18 also have, as I said, the individuals
19 related to the project. In particular, if
20 you have any questions about the
21 operational aspect of ITT, Mr. Jenkins can
22 come up and answer any of those questions
23 you may have.

24 CHAIRMAN GARCIA: Okay.

25 At this time, anyone present wishing

1 to speak in support of the application?

2 Okay. No one moving. We'll move on.

3 Anyone present wishing to speak in
4 opposition to this application? Okay. No
5 one moving.

6 The public hearing is closed.

7 Council Members, I open up the floor
8 for your questions, comments, concerns,
9 observations, all that good stuff.

10 MR. HERIN: Johnny Herin, H-e-r-i-n.
11 One last observation that I have with
12 respect to the sign issue. If you look at
13 Section 33-106 of the County Code, it
14 specifically says that "type and number of
15 point of sale signs permitted for a single
16 individual business on a lot will be based
17 on the following formula: If you have 76
18 to 150 foot of frontage," which this
19 property certainly does, "you're entitled
20 to three signs, one of which may be
21 detached."

22 And that's permitted point of sale
23 signs in the BU and IU district section of
24 the code.

25 CHAIRMAN GARCIA: Any questions?

1 VICE CHAIRWOMAN CARBANA: Mr. Chair?

2 CHAIRMAN GARCIA: Yes.

3 VICE CHAIRWOMAN CARBANA: I'd like to
4 ask some questions.

5 CHAIRMAN GARCIA: Yes, ma'am.

6 VICE CHAIRWOMAN CARBANA: You want an
7 extra sign on this building. As you're
8 coming down 183rd or 186th, if you have
9 the sign in the front -- is that where
10 you're putting the sign? On the side?

11 MR. HERIN: No, it would be on the
12 side.

13 VICE CHAIRWOMAN CARBANA: On the
14 side?

15 MR. HERIN: On both sides, on the
16 east and west side of the building.

17 VICE CHAIRWOMAN CARBANA: Okay.
18 There's not that much congestion in that
19 area that I can see, but my question is,
20 what happens if AT&T decides to either
21 downsize or you get another tenant in
22 there?

23 MR. HERIN: There's not going to be
24 much, if any space, left over. ITT is
25 taking virtually the entire -- there's two

1 existing tenants, and -- I'm sorry. Go
2 ahead, Mr. Jenkins.

3 MR. JENKINS: Peter Jenkins. I'm
4 Counsel and Manager of Real Estate for
5 ITT. My office is 13000 North Meridian
6 Street, Carmel, Indiana.

7 I just wanted to -- point of fact.
8 We will take the entire first floor of the
9 building and have plans for expansion on
10 the majority of the second floor of the
11 building. There will be some vacant space
12 on the upper floor.

13 But to answer your question, I think
14 one of the important things to realize
15 about this space is that it's currently
16 designed to be many individual condominium
17 units on each floor. I think as many as
18 eight to 10 on each side.

19 And part of the reason that we're
20 asking for the additional signage is to
21 make sure that once people are on the
22 site, they understand where we are in
23 relation to all these other individual
24 condominium units that are already in
25 place, and so they can find our entrance

1 and understand where they're going and
2 where they're going to be.

3 But my primary purpose was just to
4 clarify what space we were taking in the
5 building.

6 VICE CHAIRWOMAN CARBANA: But, then,
7 again, you have space that's available.
8 If you decide to bring in another tenant,
9 then what's going to happen with the
10 signage?

11 MR. HERIN: They would -- they would
12 be entitled to signage that's already
13 provided for under -- again, going back to
14 the elevation schematic, which is, again,
15 a part of your package, the code allows
16 all -- anyone to have a sign anyway. What
17 we're saying is that the sign that would
18 go on the other elevation will no longer
19 be available because ITT will take it.
20 It's allowed for already.

21 VICE CHAIRWOMAN CARBANA: I
22 understand that. But if you get someone
23 else in --

24 MR. HERIN: They won't -- no, the
25 agreement is that's it. It will be ITT on

1 that side, and that's it.

2 VICE CHAIRWOMAN CARBANA: Okay. So
3 another tenant comes in and they don't get
4 a sign?

5 MR. HERIN: They won't get a sign at
6 that location. If there's other space
7 available, which there are signage here
8 and here (indicating) -- this is, I guess,
9 an architectural feature on the building,
10 if you've been by it.

11 VICE CHAIRWOMAN CARBANA: Right.
12 It's kind of --

13 MR. HERIN: So -- but all other
14 entrances will have -- already are
15 entitled to their own signage, if it is
16 compartmentalized as suggested.

17 The -- I don't mean to misspeak, but
18 one of the ideas is that if this is a
19 successful site for ITT, it may decide to
20 expand and take all the other space, which
21 is -- we already know we'd have to then
22 come in again for an amendment to our
23 existing site plan to provide for that.

24 So that's -- that really is the
25 long-term plan, is for this to be a

1 success for this community and this area,
2 and that's all that will be there.

3 VICE CHAIRWOMAN CARBANA: No further
4 questions.

5 COUNCILMAN PEREZ: Mr. Chair, if I
6 may?

7 CHAIRMAN GARCIA: Go right ahead.

8 COUNCILMAN PEREZ: What's the --
9 what's the parking lot count?

10 MR. HERIN: It meets requirements for
11 parking. The total amount of parking
12 is --

13 Manny, do you know off the top of
14 your head?

15 MR. GUTIERREZ: Yes, it provides --

16 CHAIRMAN GARCIA: Yes, you've got to
17 come up and speak into the mike.

18 MR. GUTIERREZ: I thought so.

19 Manny Gutierrez, Gutierrez and Lozano
20 Architects, 2830 West State Road 84, Fort
21 Lauderdale, Florida.

22 The existing parking provided is 247
23 spaces. And it meets and exceeds --
24 what's there now, it meets and exceeds the
25 requirement for the proposed use.

1 COUNCILMAN PEREZ: Okay. Now, you
2 could have up to 907 students?

3 MR. HERIN: Correct.

4 COUNCILMAN PEREZ: Now, it's not
5 going to be like on a shift?

6 MR. HERIN: Yes.

7 COUNCILMAN PEREZ: What's the hours?

8 MR. HERIN: The hours are from --

9 MR. JENKINS: I can answer that
10 question again. This is Peter Jenkins,
11 again, for ITT.

12 We have three class sessions on a
13 daily basis. There are -- there's a
14 morning session from 8:00 to noon, an
15 afternoon session from 1:00 to 4:00, 4:30,
16 and then usually an evening session from
17 6:00 to 10:00.

18 Our heavier session is usually in the
19 evening. Average age of student is
20 somewhere around 28 years old. Usually a
21 working adult during the day. So they
22 work at their job during the day and come
23 to school at night.

24 We usually fit very well into these
25 type of multi-tenant situations where most

1 of the other businesses, if there are any,
2 close their doors before our heavy hours
3 begin.

4 Typically our general parking
5 requirement is about eight spaces for
6 every thousand square feet in the evening.
7 And the last thing that we want to do is
8 get into a situation where we don't have
9 enough parking for our students, because
10 then we won't have very many.

11 COUNCILMAN PEREZ: And if they're
12 adults, most likely they're going to come
13 in their own vehicles. You might have a
14 few that might have transportation or
15 share a ride with someone, But being
16 they're adults, you're going to have a
17 mass of cars coming in and using the
18 parking lot.

19 MR. JENKINS: Yes.

20 COUNCILMAN PEREZ: And I'm very, very
21 familiar because -- and I'm in the area a
22 lot, and that particular building has been
23 empty for quite a while.

24 But I have a concern. I have a lot
25 of concerns. And one of my main concern

1 is there's only one way in and one way
2 out. That's Number 1.

3 Number 2, you cannot go eastbound
4 when you exit the building onto Miami
5 Gardens Drive. You have to go westbound.
6 You have to do a U-turn right in front of
7 the entrance to the Winn-Dixie and the
8 K-mart and the Ross, which I believe is in
9 there, which right now is a nightmare.

10 MR. JENKINS: Right.

11 COUNCILMAN PEREZ: Further west, I
12 believe that's 62nd Avenue, I'm not too
13 sure, a traffic light -- a traffic light
14 was supposed to be installed many years
15 ago, and it's not there.

16 Miami Gardens Drive, last I checked,
17 was Class "D" as far as traffic flow.
18 That's almost the worst. Adding -- I
19 don't know how many students might show up
20 between these classes, a couple hundred,
21 maybe 300?

22 MR. JENKINS: I think that would be
23 on the high end for 300. The way that we
24 utilize our space, not all of those seats
25 can be filled at any one time.

1 COUNCILMAN PEREZ: What's your
2 capacity in the classroom at one time?

3 MR. JENKINS: I don't know how to
4 answer that question specifically, because
5 we don't know what programmatic offerings
6 we're going to have yet, because we
7 haven't recruited students to that
8 location. We respond to the community's
9 need, what the employers in the area would
10 like to see, what kind of demand there is
11 for certain programs before we schedule
12 them.

13 But typically what will happen is
14 that one session of students will have to
15 rotate between several different
16 classrooms to complete their coursework in
17 that any one session. So you don't fill
18 up all the rooms, because the different
19 functions -- there are different functions
20 for different rooms in the space. And you
21 don't use that simultaneously.

22 To answer your question about ingress
23 and egress, I was out at the site today
24 and noted that this driveway here
25 (indicating) appears to have originally

1 been designed to connect into the space
2 and provide a second means of egress from
3 the facility.

4 And all that would need to be done
5 is, you know, make the curb cut to have
6 that connection. And that would give a
7 second means of egress directly out to
8 Northwest 57th. And anybody who would
9 want to go west on 183rd could come out
10 that way and make the turn.

11 COUNCILMAN PEREZ: Yeah, but as we
12 speak, that does not exist.

13 MR. JENKINS: The drive -- this is
14 all there. All you have to do is make a
15 simple connection between the two.

16 COUNCILMAN PEREZ: But it's when, and
17 who and how.

18 MR. HERIN: I don't -- John Herin. I
19 don't disagree. You do have the cross
20 access to use this access point as well.

21 But what I would like to say and
22 remind everyone is that the impacts of
23 this development, including the max use
24 of it, has already been calculated and
25 factored into the traffic for this site.

1 When this was originally approved
2 several years ago by the County, that
3 traffic generation was taken into account.
4 And you'll see in your staff report that
5 the -- that Public Works has stated that
6 it meets the appropriate level of service,
7 because it's been accounted for.

8 COUNCILMAN PEREZ: But at a --

9 MR. HERIN: No, at the max build-out.

10 COUNCILMAN PEREZ: Right. But let me
11 go back a few years ago. Miami Gardens
12 Drive, if you look east as soon you get to
13 Red Road, and you continue east into Miami
14 Gardens, into the City of Miami Gardens,
15 it turns into a six-lane highway.

16 We were supposed to get that six-lane
17 highway all the way through -- westbound
18 through I-75.

19 MR. HERIN: It merges right over
20 there.

21 COUNCILMAN PEREZ: Right. It merges
22 right there. And it's a funnel there.
23 And God forbid if there's an accident on
24 the Palmetto. I mean, you cannot go
25 through there. I've seen emergency

1 vehicles cutting through the swales just
2 to try to get through there. And
3 people -- I mean, it's a nightmare.

4 The main -- to me, the really main
5 concern is the traffic issue there that's
6 going to happen due to the fact that
7 you're going to have quite a few students.
8 And not only students, you've got faculty.
9 You know, you have other -- other --

10 MR. HERIN: I don't disagree. I
11 really don't mean to get into -- to argue
12 about this, but if you -- if you didn't
13 have ITT, if you built this out and
14 staffed it completely or occupied it
15 completely with its max available tenancy,
16 you would generate the same amount of
17 traffic at the site.

18 COUNCILMAN PEREZ: But not the same
19 time.

20 MR. HERIN: Actually, it would -- the
21 peak hours of traffic would congest the
22 road more, because with ITT, it's spread
23 out throughout the day.

24 COUNCILMAN PEREZ: Well, what I'm
25 trying to say is, let's say you have

1 offices in there, and I'm going to visit
2 an office, an accountant, a hair stylist,
3 whatever it may be, there's -- you know,
4 you go there at different hours. You
5 don't go there -- you know, if you got to
6 go to ITT to attend school and it starts
7 at 8:00 p.m. -- 8:00 a.m., you're going to
8 have a flow of traffic getting up there at
9 8:00 a.m., and they're going to be exiting
10 at 12:00, and at 1:00 and at 6:00, and
11 then leaving those other times.

12 So you're going to have a mass flow
13 going in at a certain times and a mass
14 flow exiting.

15 MR. HERIN: You would have the same
16 with the employees and the people who are
17 there at opening time and closing time.

18 COUNCILMAN PEREZ: But the people who
19 do visit that building right now -- I know
20 it's not much, because most of it is
21 empty, but, still, the hours flex. So
22 it's a different comparison as when you
23 have to show up at eight o'clock in the
24 morning to go to school. So you're going
25 to be there between 7:00 and a quarter

1 'till or so, and so forth and so on.

2 MR. HERIN: All I -- my -- the only
3 answer -- the only additional answer I can
4 give to that is that the County has
5 already factored that in, and it said that
6 it won't negatively impact --

7 COUNCILMAN PEREZ: Sir, with all due
8 respect, the County has factored a lot of
9 things into this area, especially the
10 immigration area. And that's a long
11 story. And they dropped the ball many
12 times.

13 MR. HERIN: Fair enough. I -- you
14 know, all I have is what the County itself
15 has said.

16 COUNCILMAN PEREZ: And I totally
17 respect that. And I understand exactly
18 what you're saying. But I travel that
19 road every single day; sometimes over a
20 dozen times. So I'm aware of the traffic
21 issue there, especially if you're trying
22 to leave the shopping center where the
23 Winn-Dixie is. It is horrible. There's
24 not a traffic light there. It's just
25 horrible.

1 I don't know if you -- you're not
2 from this area, so you're not really
3 familiar at rush hour or in the morning
4 how bad it gets there.

5 MR. HERIN: Well, I have traveled
6 through the area, and, you know, it's --
7 there's -- there's not many streets in
8 Miami-Dade County or, for that matter,
9 Broward County, that don't get congested
10 at one point or another.

11 COUNCILMAN PEREZ: True.

12 MR. HERIN: And, you know, it is what
13 it is, and we deal with that. And, again,
14 all I can say is that, according to the
15 County, that's been factored into their
16 analysis. And, you know, all things --
17 whether it's ITT or anyone else, God
18 willing, for the benefit of the owner of
19 this building that he's able to ultimately
20 get tenants in there, and staff it out
21 completely, and have a viable
22 income-producing piece of property, it's
23 going to generate traffic.

24 COUNCILMAN PEREZ: I understand what
25 you're saying. It's just the hours where

1 you see the difference. It's all at one
2 time.

3 No further questions, Mr. Chairman.

4 CHAIRMAN GARCIA: Okay. If I -- I
5 was going to ask for permission to speak,
6 I'm giving myself permission to speak.

7 MR. HERIN: Go ahead.

8 VICE CHAIRWOMAN CARBANA: Yes.
9 Please go ahead.

10 CHAIRMAN GARCIA: Go ahead? Okay,
11 great. Thanks.

12 VICE CHAIRWOMAN CARBANA: Anytime.

13 CHAIRMAN GARCIA: Okay. Just to --
14 I've been doing this for awhile, and most
15 of us up here have also, but I want to
16 make sure that we understand. And, as
17 Council Members, we, you know, are going
18 to ask questions. We have our concerns.
19 We have a right to, you know, to factor in
20 a lot of things.

21 But just for the benefit of my fellow
22 Council Members, what we're here to
23 determine is -- the conditions for
24 approval have already been set, and the
25 applicant is basically saying that

1 conditions five and six, he would like to
2 be included in that approval, okay? So
3 that's what we've really got to focus on.

4 I understand about the traffic. I
5 understand about all these different
6 things, but we really -- what we need to
7 focus on is what they're asking for, which
8 is the sign and the wall.

9 MR. HERIN: Correct.

10 CHAIRMAN GARCIA: I just -- again,
11 I'm just saying that because that's what
12 we really need to focus on. We can ask
13 questions, and you have a right to ask --
14 and you -- because you -- because you've
15 been on the council, Councilman Perez, for
16 as long as I have. And, listen, you drive
17 that -- I know you drive that road all the
18 time, so it's a concern.

19 COUNCILMAN PEREZ: But, if I may, and
20 where we clarified, the staff is making a
21 recommendation. And we could change it;
22 am I correct? We don't have to abide by
23 your recommendation?

24 MS. CARRANZA: That's correct.

25 CHAIRMAN GARCIA: That is correct.

1 And what I said was, the whole thing is,
2 the recommendation is based on -- for
3 approval and the conditions, and then the
4 applicant says they're fine with all the
5 recommendations. Nine times out of 10,
6 when staff, you know, approves and gives
7 us conditions, we tend to go with that,
8 because that's -- it makes -- it makes
9 sense. It's staff approval.

10 But what I'm saying is, what the
11 applicant is asking for is for us to
12 include in the approval conditions five
13 and six. So we need to focus on that five
14 and six and how that affects the whole
15 application.

16 With that said, I have a question.

17 Again, I'm going to ask about the
18 signage. Okay. The signage, you're
19 talking about putting in two signs --

20 MR. HERIN: Correct.

21 CHAIRMAN GARCIA: -- as opposed to
22 one sign, which is what you're allowed to
23 have.

24 MR. HERIN: Well, I think that
25 there's -- as I indicated before -- sorry.

1 As I indicated before, I think that
2 there is an interpretative issue as to
3 whether or not there's just one sign as
4 opposed to multiple signs permitted.

5 But for argument's sake, for the
6 purpose of answering your question, staff
7 is saying there's only one sign permitted.
8 But, yes, we're asking for a mirror second
9 sign on the flip side of the building
10 where a sign is already permitted, but
11 conceivably for use by another tenant,
12 which that tenant would then no longer
13 have that space available. We understand
14 that. We know that. And -- that we, you
15 know, have that limitation.

16 So a sign -- this sign that's here on
17 this east elevation, we're asking to be
18 also allowed on the west elevation where,
19 as you can see, a sign is already allowed
20 under the Code here. It just would be ITT
21 as opposed to AT&T. If AT&T were to rent
22 out some space here, we would not allow
23 that to happen.

24 CHAIRMAN GARCIA: Okay. So based on
25 the Code, it says -- and I'll paraphrase

1 -- each tenant has one sign. In this
2 case, you're being a tenant, and you're
3 asking for an additional sign.

4 MR. HERIN: Correct.

5 CHAIRMAN GARCIA: Additional signage.

6 Now, within the building, there's the
7 face of the building; there's the side;
8 the back; all that.

9 But in the face of the building where
10 you're going to have -- where there's
11 going to be other tenants there, there is
12 the -- there is the capability of putting
13 smaller signage, not the marquee signage,
14 like you called it, where it's on the --
15 on the higher elevations?

16 MR. HERIN: That's correct. These
17 other locations would have the ability to
18 put signage on the front of the building,
19 if they rent out that space.

20 But from the perspective of the
21 proposed use, ITT is going to be occupying
22 the ground floor and the second floor, and
23 that's going to take up all that signage
24 as well.

25 CHAIRMAN GARCIA: So currently right

1 now there's four -- I would say four
2 areas, large areas that you can put the
3 big signs. The marquee signs -- the
4 larger ones. Because you have two in the
5 front, two in the back, correct?

6 MR. HERIN: Yeah. Four. One, two,
7 three, and four.

8 CHAIRMAN GARCIA: Okay.

9 MR. HERIN: And one here, which is
10 for the building that's allowed. It
11 already has that signage up there.

12 CHAIRMAN GARCIA: Okay. So
13 technically you would put one more in one
14 of these other three places that doesn't
15 have the signage?

16 MR. HERIN: That's correct.

17 CHAIRMAN GARCIA: That would leave
18 two other spots for -- if someone in the
19 third floor says, "I want a marquee spot,"
20 they would have either those two to choose
21 from.

22 MR. HERIN: That's correct. And
23 that's allowed under the Code.

24 CHAIRMAN GARCIA: No, I understand
25 that.

1 MR. HERIN: Yes.

2 CHAIRMAN GARCIA: So what you're
3 asking for is to allow to be put a second
4 sign where you're only -- at this point
5 you're only allowed to put one?

6 MR. HERIN: That's correct.

7 CHAIRMAN GARCIA: Okay. In regards
8 to -- you made a mention of the ingress
9 and egress. You stated that there's -- if
10 you could put the picture back up, because
11 that's a concern of mine as well. Where
12 you only have technically right now one
13 way in and one way out. And that has to
14 do with, you know, the whole scheme of the
15 whole application.

16 Right now, is there an entrance in
17 there or not?

18 MR. HERIN: Back here?

19 CHAIRMAN GARCIA: Yes.

20 MR. HERIN: No, no, there is not.

21 CHAIRMAN GARCIA: What -- and I think
22 this is more for staff's question. What
23 would need to happen in order to make --
24 to open that up?

25 MS. CARRANZA: To open what up?

1 CHAIRMAN GARCIA: Where they're
2 saying that there was that street. I
3 don't know if it has a name or number.

4 VICE CHAIRWOMAN CARBANA: It's just
5 by the auto place.

6 MR. HERIN: There is an -- there is
7 an access point that runs east/west from
8 57th to our property line. Right now it's
9 curbed. That was -- the site plan that
10 was approved by the County told us to curb
11 that. I presume. I mean, I don't --

12 MS. CARRANZA: So, I'm sorry, for
13 clarification, you're -- you want to open
14 up an entrance on the east side? Is that
15 what you're suggesting?

16 MR. HERIN: If it's -- if the other
17 -- I don't think that we can unilaterally
18 do that not knowing what the approvals for
19 these other properties were, if that's a
20 public road. I do not know.

21 VICE CHAIRWOMAN CARBANA: Staff, if I
22 may.

23 If you come off of Red Road, there's
24 a Walgreens on the corner. That's part
25 of -- to come in, in order to do the

1 drive-through for Walgreens and to access
2 Walgreens.

3 MS. CARRANZA: Okay.

4 VICE CHAIRWOMAN CARBANA: As you go,
5 the next building over is an auto parts
6 store.

7 MS. CARRANZA: Correct.

8 VICE CHAIRWOMAN CARBANA: All right.
9 And what he's saying is, because that road
10 goes there and ends --

11 MS. CARRANZA: At the Auto Zone?

12 VICE CHAIRWOMAN CARBANA: At the --
13 yes, behind the Auto Zone into where their
14 property goes.

15 MS. CARRANZA: Um-hmm.

16 VICE CHAIRWOMAN CARBANA: So he's, I
17 guess, asking, or we are, what would it
18 take in order to open that up to allow
19 another --

20 MS. CARRANZA: Oh, an entrance all
21 the way into this property?

22 Well, one of the first things would
23 be, you would have to get approval from
24 those property owners --

25 VICE CHAIRWOMAN CARBANA: Right.

1 MS. CARRANZA: -- in order to go
2 through those properties.

3 MR. HERIN: That's correct.

4 MS. CARRANZA: But, now, that's not a
5 part of this application.

6 CHAIRMAN GARCIA: I know that, and I
7 said that. I know that's not part of it.
8 It's just what we're looking at as far as,
9 you know, the whole scheme of traffic in
10 and out just as a Board. And, like,
11 Councilman Perez brought it up, there's a
12 lot -- whether it's ITT, ABC, L, M, N, O,
13 P, whoever it is that's in there is going
14 to have traffic at the same time, but here
15 you have specific pockets of times that
16 you will have more traffic than others.

17 If it's an office location -- and you
18 know what, it's my opinion that if you're
19 there from 9:00 to 5:00, your -- most of
20 your traffic is going to be at the
21 beginning, 9:00 -- 8:30, nine o'clock and
22 five o'clock. During those median times
23 or middle times, unless there's constant
24 traffic, you're going to have a lull in
25 that movement.

1 MR. HERIN: Correct.

2 CHAIRMAN GARCIA: And in this case,
3 it would be three times, three different
4 shifts that you would have movement of "X"
5 number of students, whether it's 50, 75 or
6 a hundred, whereas if it was just regular
7 tenants, you would have a different
8 traffic pattern.

9 Again, that's not part of the
10 application or -- you're not asking for
11 anything that's not already been part of
12 the recommendations and the -- and what's
13 already zoned. And you're following those
14 rules. There's just a concern that we
15 have that we would like to -- again, as
16 the Board, we're voicing.

17 MR. HERIN: Look, I understand the
18 concern. I think it's a concern of any
19 community council in your position that,
20 you know, how it's going to impact, but at
21 the end -- as I said before, and as you
22 just stated, at the end of the day,
23 theoretically, it's all been accounted
24 for.

25 If there's anything that we can do,

1 we try and accommodate, but we're
2 somewhat, as staff said, limited. I don't
3 believe, to the best of my knowledge, that
4 this access point is public. And so we
5 would have to get the approval of those
6 property owners and enter into some kind
7 of a cross-access easement in order to be
8 able to do that. And all it would take is
9 one of those property owners to say no,
10 and we would not be able to do that.

11 And, again, I don't want to say
12 anything or put words in staff that -- not
13 necessarily with regards to this
14 application, but when this item first came
15 and was approved, that was known by
16 everyone. And we weren't told at that
17 time hey, go ahead and open up that access
18 point there, work it out with the
19 neighbors, or see if you can work it out
20 with the neighbors.

21 CHAIRMAN GARCIA: One more question I
22 have, because you've provided us with this
23 document here that gives us, you know, the
24 sections of what the Code says, or the
25 statutes.

1 If you look at the one -- now we're
2 talking about the wall.

3 MR. HERIN: Yes.

4 CHAIRMAN GARCIA: Okay. It's Page 1
5 -- the second page.

6 MR. HERIN: Yes.

7 CHAIRMAN GARCIA: Where it says
8 Section 33-253.7.

9 MR. HERIN: Yes.

10 CHAIRMAN GARCIA: Now, you're asking
11 the Board -- or you're asking for us to
12 say, you know, waive that required
13 five-foot, but you've given us the
14 information that says where a business lot
15 abuts -- all that stuff that you can see,
16 it says, "masonry wall at least five feet
17 in height shall be erected on the business
18 lots along the common property line
19 separating the two districts."

20 MR. HERIN: Correct. But if you go
21 to the next page, which is the current
22 zoning district, it's a more intense
23 zoning district than what we're asking.
24 We're actually being -- we're asking for
25 the equivalent of a down-zone. We're

1 going from industrial to business. And
2 under the industrial zoning classification
3 that this property currently has, we meet
4 the requirements, which I would suggest,
5 and respectfully suggest, are more
6 onerous, which is, as you see down on
7 33-278.1, "A continuous, extensively
8 planted greenbelt of eight feet in width,"
9 which on our side, as well as similarly
10 one on the other side of the apartment
11 complex with chain link fence. That
12 greenbelt runs from 57th all the way to
13 the end of the complex uninterrupted.

14 And if you put a wall here
15 (indicating), it just -- it makes no
16 sense. If you don't have a continuous
17 wall, like you have a continuous
18 greenbelt, you're just -- you're a slave
19 to form over substance, which is there's a
20 greenbelt that already exists, and it's
21 been permitted and required to be
22 maintained, as opposed to, well, the Code
23 says you need to have a five-foot wall.

24 That five-foot wall in that location,
25 in the absence of anything on its side to

1 connect into is going to be the blank
2 canvas in that community for vandalism, I
3 would suggest.

4 And if talk -- if you now go back to
5 the second page of the handout, that "the
6 non-use variance maintains basic intent
7 and purpose of the land use regulations,
8 particularly as it affects the stability
9 and appearance of the community and will
10 otherwise be compatible with the
11 surrounding land."

12 I would, again, suggest that if you
13 require a wall to go there in the absence
14 of any other wall next to it, that's not
15 consistent with the community character.
16 And actually granting the variance will
17 maintain the integrity of that area,
18 what's there, what's been approved to
19 date, which has been in existence for
20 years and that we're obligated to maintain
21 anyway.

22 VICE CHAIRWOMAN CARBANA: Mr. Chair?

23 CHAIRMAN GARCIA: Yes.

24 VICE CHAIRWOMAN CARBANA: I have a
25 question for staff.

1 Is the purpose of that wall to try to
2 stop a lot of the noise from the traffic
3 at the school?

4 MS. CARRANZA: That is one of the
5 reasons, but also it's to bring it up to
6 compliance with BU-2, which is what
7 they're proposing.

8 But the applicant is correct where
9 he's saying that it's not a requirement in
10 the IU-C zoning district.

11 VICE CHAIRWOMAN CARBANA: Thank you.

12 COUNCILMAN SENDEROFF: Mr. Chairman?

13 CHAIRMAN GARCIA: Hold on a second.
14 So right now I know that it's IU-C.

15 MS. CARRANZA: Correct. Right now
16 it's currently zoned IU-C.

17 CHAIRMAN GARCIA: So right now it's
18 fine.

19 MS. CARRANZA: Right. Right now it's
20 fine, and it's not required.

21 CHAIRMAN GARCIA: But if he changes
22 the zone to BU-2, then that's where the
23 wall comes into effect.

24 MS. CARRANZA: That's correct.
25 That's just because it's part of the

1 regulations of the BU-2 zoning district.

2 MR. HERIN: And I would suggest
3 that's the whole reason why you have the
4 non-use variances. For this, to me, is a
5 classic example where everything around it
6 is a greenbelt with a chain link fence on
7 both sides -- the greenbelt is on both
8 sides, the residential side, and the
9 commercial -- and the industrial side.
10 And it goes for thousands of feet. And
11 you're now -- and we're going to be a
12 slave to the language in the Code that
13 says for 75 feet with no end -- so people
14 can go around it, noise can go around it
15 -- you're going to have a wall 75 feet in
16 width just because we down-zoned this
17 piece of property. Not up-zoned it, but
18 down-zoned it.

19 CHAIRMAN GARCIA: Okay. You had a --
20 you already had your question.

21 VICE CHAIRWOMAN CARBANA: No. Thank
22 you, staff.

23 CHAIRMAN GARCIA: Senderoff, sir.

24 COUNCILMAN SENDEROFF: So the
25 building to the west of that, I know that

1 there's a -- I believe it's a doctor's
2 office. Just if you're facing it to the
3 west, the left side there (indicating).

4 MR. HERIN: Right here (indicating)?

5 COUNCILMAN SENDEROFF: Yes. What's
6 that behind the building? Is that a wall
7 as well?

8 VICE CHAIRWOMAN CARBANA: That's a
9 storage.

10 MR. HERIN: No, that's a storage.
11 That's all storage.

12 VICE CHAIRWOMAN CARBANA: That's a
13 storage unit.

14 MR. HERIN: They're all storage.
15 These are storage units.

16 COUNCILMAN SENDEROFF: Oh, that's the
17 storage facility. Okay.

18 MR. HERIN: These are storage spaces
19 right up against the property line with
20 the buffer. This side of the buffer, the
21 south side of the buffer, a chain link
22 fence and the north side of the buffer on
23 the apartment side. And that goes from
24 57th all the way down to the end of the
25 complex on the other side.

1 COUNCILMAN SENDEROFF: And you're
2 saying it's on both sides?

3 MR. HERIN: Yes. There's -- and it's
4 in the staff report. Staff went out and
5 verified that. There is landscaping on
6 both sides. We're required to maintain
7 ours. There a row of Ficus and other
8 vines that are -- that we're required to
9 install, and we will continue to maintain
10 that.

11 That's another reason why we think
12 the variance should be granted. Because
13 if you put up the wall, we're not going to
14 have space to then get in and maintain the
15 landscaping that's already been put in at
16 great expense that the County told us we
17 had to put in.

18 COUNCILMAN SENDEROFF: And to the
19 east of that is another storage facility,
20 correct?

21 MR. HERIN: That's correct. And same
22 thing.

23 COUNCILMAN SENDEROFF: Storage units.

24 MR. HERIN: As you can see, we're
25 right up against it.

1 CHAIRMAN GARCIA: Okay.

2 VICE CHAIRWOMAN CARBANA: So they
3 have walls already there?

4 MR. HERIN: No, they don't.

5 VICE CHAIRWOMAN CARBANA: But, I
6 mean, part of their building is a wall.

7 MR. HERIN: But it doesn't -- the use
8 is right up against them. We, on the
9 other hand, are a hundred feet to the
10 south parking lot.

11 CHAIRMAN GARCIA: Okay. Anything
12 else? Any other questions?
13 Clarifications? I don't see any show of
14 hands or mouths moving.

15 I will definitely entertain a motion
16 at this time.

17 COUNCILMAN PEREZ: Mr. Chair, I would
18 like to make a motion to deny the
19 application without prejudice.

20 CHAIRMAN GARCIA: Motion on the floor
21 to deny the application without prejudice.

22 Is there a second?

23 No second.

24 Motion dies.

25 Do we have a motion -- another

1 motion? Can't be the same one.

2 VICE CHAIRWOMAN CARBANA: Can I ask
3 for his clarification on his motion?

4 MR. McINNIS: Sure.

5 CHAIRMAN GARCIA: Please, I -- if
6 you're uncertain, I give plenty of
7 latitude.

8 VICE CHAIRWOMAN CARBANA: Well, I
9 just want to make sure where he's coming
10 from.

11 Mr. Perez, so your motion is
12 encompassing that everything will be
13 denied because of -- because of the
14 reasons that were brought up today in
15 order to resolve the traffic flow, et
16 cetera?

17 COUNCILMAN PEREZ: Correct.

18 VICE CHAIRWOMAN CARBANA: Then I
19 second the motion.

20 CHAIRMAN GARCIA: Well, you can't
21 second the motion, because the motion
22 died, but we can re-motion.

23 COUNCILMAN PEREZ: Then I'll --

24 VICE CHAIRWOMAN CARBANA: Restate
25 your motion.

1 COUNCILMAN PEREZ: -- restate my
2 motion to deny the application with
3 prejudice.

4 VICE CHAIRWOMAN CARBANA: And I will
5 second it.

6 MR. JONES: Did you say "with
7 prejudice"?

8 COUNCILMAN PEREZ: With prejudice.

9 CHAIRMAN GARCIA: With?

10 COUNCILMAN PEREZ: With prejudice.

11 MR. JONES: Motion to deny the
12 application with prejudice.

13 Vice Chairwoman Carbana?

14 VICE CHAIRWOMAN CARBANA: For the
15 motion.

16 MR. JONES: Councilman Paul?

17 COUNCILMAN PAUL: For the motion.

18 MR. JONES: Councilman Perez?

19 COUNCILMAN PEREZ: For the motion.

20 MR. JONES: Councilman Senderoff?

21 COUNCILMAN SENDEROFF: For the
22 motion.

23 MR. JONES: Chairman Garcia?

24 CHAIRMAN GARCIA: Against the motion.

25 MR. JONES: Motion passes four to

1 one. So the application has been denied
2 with prejudice.

3 CHAIRMAN GARCIA: Okay.

4 (Thereupon, the proceeding was
5 concluded:)

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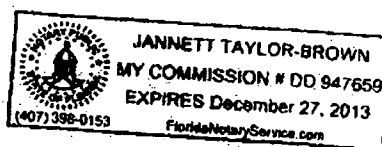
CERTIFICATE OF OATH

STATE OF FLORIDA)
 SS)
COUNTY OF MIAMI-DADE)

I, Jannett Taylor-Brown, Court
Reporter and Notary Public in the State of
Florida, certify that all witnesses personally
appeared before me on this 28th day of June,
2012, and were duly sworn.



JANNETT TAYLOR-BROWN
Court Reporter
Notary Public, State of Florida
My Commission # DD947659
My Commission Expires: 12-27-2013

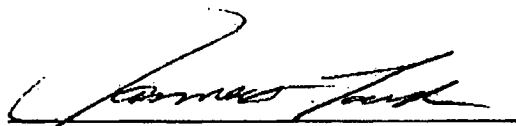


CERTIFICATE OF REPORTER

STATE OF FLORIDA)
SS:
COUNTY OF DADE)

I, Jannett Taylor-Brown, Court
Reporter and Notary Public in the State of
Florida, do hereby certify that a meeting was
held before Community Zoning Appeals Board 5 on
June 28, 2012; and that Item Number 11-077,
MIAMI GARDENS COMMONS, LLC was heard, and that
the foregoing pages, numbered 1 through 59,
inclusive, constitute a true and correct
transcript of my stenographic notes.

WITNESS my hand in the City of Miami,
County of Dade, State of Florida, this 13th day
of July 2012.



JANNETT TAYLOR-BROWN
COURT REPORTER